

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:22-cv-00114-MR**

AUSTIN REID PITTMAN,)
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Plaintiff,)
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vs.)
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)
FNU SIGMON,)
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Defendant.)

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ORDER

THIS MATTER is before the Court on Plaintiff’s “Motion by Plaintiff for Voluntary Dismissal, w/out Prejudice.” [Doc. 53].

Pro se Plaintiff Austin Reid Pittman (“Plaintiff”) filed this action pursuant to 42 U.S.C. § 1983 against Defendant Joshua Sigmon, identified as a Unit Manager at Alexander Correctional Institution (“Alexander”) in Taylorsville, North Carolina, based on his alleged use of excessive force on April 10, 2022. [Doc. 1]. Plaintiff’s Complaint passed initial review. [Doc. 7]. Defendant Sigmon timely answered [Doc. 19], and, on January 26, 2024, moved for summary judgment [Doc. 46].

Plaintiff now moves the Court to dismiss his Complaint without prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.¹ [Doc. 53]. As grounds, Plaintiff states that he “has several actions filed with this Court and because of numerous medical conditions has not been able to keep up with discovery in all of these actions.” [Id. at 1]. Plaintiff also states that he intends to refile this action in the future and asks that the case be dismissed without prejudice. [Id. at 2]. The Court will grant Plaintiff’s motion to dismiss without prejudice under these circumstances. Fed. R. Civ. P. 41(a)(2).

ORDER

IT IS THEREFORE ORDERED that Plaintiff’s Motion for Voluntary Dismissal [Doc. 53] is **GRANTED** and this action is hereby **DISMISSED without prejudice**.


IT IS FURTHER ORDERED that Defendant’s Motion for Summary Judgment [Doc. 46] is **DENIED** as moot.

The Clerk is respectfully instructed to terminate this action.

¹ Rule 41(a)(1), which regards voluntary dismissal without a court order before the opposing party has answered or moved for summary judgment, does not apply here. Fed. R. Civ. P. 41(a)(1). The Court will consider Plaintiff’s motion under Rule 41(a)(2).

IT IS SO ORDERED.

Signed: February 12, 2024



Martin Reidinger
Chief United States District Judge

